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New Analysis Announced for Class Action Antitrust Cases, Bringing Clarity to Long-Unsettled Certification Question Forthcoming Event and Paper to Detail New Findings

Boston, May 5, 2010 — New research to be announced next month from a group of leading thinkers in business, law, and economics holds the promise of bringing analytical clarity to a pivotal yet long-unsettled question arising in antitrust class action litigation. Dean [Edward Snyder](#) of the University of Chicago Booth School of Business, economist Dr. [Pierre Cremieux](#) of Analysis Group, and attorney Ian Simmons of the O'Melveny & Myers law firm present their findings in an article set to be published in the July 2010 volume of the *George Mason Law Review*. The article is currently available online as [working paper](#).

With issues raised by the *In re Hydrogen Peroxide Litigation* far from settled and the recent 5-4 decision of affirmation of class certification in *Wal-Mart en banc*, ever-increasing numbers of antitrust class action suits constitute some of the most significant business lawsuits on dockets around the country. Such cases often turn on the central question of class certification, but no clear judicial approach to the class certification analysis has emerged, due to the evolving law and uncertainty within the courts over the reliability of common proof of impact—e.g., economic injury—to groups of consumers.

Dean Snyder, Dr. Cremieux, and Mr. Simmons have outlined a conceptual approach to this question that promises to bring clarity and consistency. Their research introduces two tests necessary to determine whether regression analysis, a frequently used form of evidence in antitrust class actions, is an acceptable method of common proof of impact: (a) the proposed macro-commonality test assesses whether proposed regression results are robust given the scope of the proposed class; and (b) the proposed micro-commonality test assesses whether regression results indicate that common issues predominate over individual issues. Together, they are necessary tests to be performed before accepting regression analysis as a common method of proof. If adopted by courts, the “macro-commonality” and “micro-commonality” test would bring a rigorous, uniform analysis to this most significant area of business litigation.

On May 12, 2010, Dean Snyder and Dr. Cremieux discuss their findings at an Analysis Group seminar in Chicago. “Proving Common Impact in Antitrust Class Actions: Current Legal and Economic Thinking” will also feature John W. Treece, a partner with Sidley Austin LLP, and will take place at 8:00 a.m. at the University of Chicago’s Gleacher Center. For further details and registration, please visit: http://www.analysisgroup.com/common_impact_seminar.aspx. To arrange an interview with Dr. Cremieux or for more information on the event or paper, please contact [Eileen Harrington](#).

Analysis Group (www.analysisgroup.com) provides economic, financial, and business strategy consulting to leading law firms, corporations, and government agencies. The firm has more than 475 professionals, with offices in Boston, Chicago, Dallas, Denver, Los Angeles, Menlo Park, New York, San Francisco, Washington, and Montreal.